FAX : 011-26108426 **REGISTERED / AD**

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066**
**CUSTOMS APPEAL BRANCH**

Dated: **28/09/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/52941/2015-CU[DB]** dated **16/09/2015**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **129-A(4)** of the **Customs Act, 1962.**

**Asstt. Registrar(CUSTOMS Appeal Branch)**

| Application | Appeal | Name and Address of Appellant |
|---|---|---|
| 1 | C/53227/2014 | **Vijender Singh**<br>D-1007, Om Enclave Part-ii,<br>Near Meethapur Extn. Badarpur,<br>NEW DELHI-110044 |
| | | **Name and Address of Respondent** |
| 2 | | C.C.-New Delhi(import & General)<br>NEW CUSTOM HOUSE,NEAR IGI AIRPORT,<br>NEW DELHI, |

**Copy To**

3Advocate(s) / Consultant(s):

**Ashutosh**
**Chamber No.143, Patiaala House Court,**
**New Delhi,**

4 Additional Party's Name & Address :
5 Bar Association, CESTAT, Delhi
6 Director Publications, Customs, Excise. I.P. Estate, Delhi
7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
15 C.D.R. 16 Office Copy 17 Guard File

**Asstt. Registrar(CUSTOMS Appeal Branch)**

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. I

Date of hearing / decision : 16.09.2015

For Approval and Signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R. K. Singh, Member (Technical)

| | | |
|---|---|---|
| 1 | Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982? | |
| 2 | Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | |
| 3 | Whether their Lordships wish to see the fair copy of the Order? | |
| 4 | Whether Order is to be circulated to the Departmental authorities? | |

Customs Appeal No. 53227 of 2014

(Arising out of order-in-original No. 37/NLB/POLICY/2014 dated 02.06.2014 passed by the Commissioner of Customs (Import & General) New Delhi).

Vijender Singh Appellant

Vs.

CC, New Delhi Respondent

Appearance:

Dr. Ashutosh, Advocate for the appellant-assessee
Sh. Amresh Jain, DR for the Revenue

Coram:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R. K. Singh, Member (Technical)

Final Order No. 52941/2015

**Per: R. K. Singh**:

Appeal has been filed against order dated 02.06.2014 in terms of which the Commissioner of Customs confirmed the suspension of customs broker license of the appellant.

Facts of the case, in brief, are as under:

The Deputy Inspector General of Registration & Deputy Controller of Stamps, Thane informed he Commissioner of Customs that certain customs brokers including the appellant submitted forged e-challans as evidence of deposit of stamp duty and FIR had been lodged against all of them. The Commissioner of Customs after considering the facts and after hearing the appellant held the appellant guilty of violation of Regulation 11(g) of the CBLR, 2013 and based on that confirmed the suspension vide the impugned order.

2. The appellant has stated that after the enquiry the Police has filed final report in which it has not found the appellant guilty and submitted by hand during the hearing a photocopy of the said (purported) final report which was in Marathi. It also cited the judgment of CESTAT in the case of ***Navbharat Shipping (I) Limited*** which revoked the suspension of the customs broker license of Navbharat Shipping adding that the said customs broker was also one of the customs brokers whose license was suspended exactly on the same grounds.

3. Ld. DR on the other hand, stated that the final report which is in Marathi submitted by the ld. Advocate needs to be studied. He added that forged e-challan was submitted to Customs by the appellant and therefore it cannot claim innocence.

4. We have considered the contentions of both sides. It is not in dispute that the challans depicting payment of stamp duty were forged. As the appellant was the Customs broker who (would have) submitted them to Custom, Prima-facie, he cannot claim innocence with regard to the said fraud. It has to be noted that vide the impugned order the Customs broker's licence was not revoked; only its suspension was confirmed. It obviously means that further action with regard to the revocation / restoration of the said licence was still pending. We do find in the case of Navbharat Shipping the Hon'ble CESTAT has observed as under:

> "5. *Having considered the rival contentions. We find that the suspension was ordered to be continued by the impugned order only for ensuring that there is no interference by the CHA in the process of investigation. The said investigation is now completed and the final report have been filed and further no allegation have been made out against the CHA. FIR copy of final report filed before us in the course of hearing is seen with English translation provided. We set aside the impugned order and set aside the suspension. We further direct the Commissioner of Customs (General) to permit the appellant to carry out the work of CHA with immediate effect. Copy of the order be given Dasti. The stay application is also disposed of".*

As noted in the above quoted paragraph, English translation of the final report of the Police exonerating the said broker was submitted to CESTAT for perusal. In the present case we do not have English translation of the final report of the Police which is in Marathi in which, it is claimed by the appellant, ~~that~~ it has been exonerated. Be that as it may. The fact remains that suspension was confirmed on 02.06.2014 and it has been more than one year since then. In view of the time elapsed and having regard to the fact that the appellant has claimed that in the final report of the Police, after the conclusion of the enquiry into the fraud it has not been found to be guilty, we are of the view that the suspension cannot be continued for unreasonable long period and the decision with regard to revocation/ restoration of the license needs to be taken expeditiously. Accordingly, we remand the case to the Commissioner of Customs with the following directions:

Proceedings if any pending in terms of CBLR, 2013 shall be completed expeditiously, preferably within a period of sixty days from the date of this order after giving an opportunity to the appellant of being hearing during which appellant shall be at liberty to produce the said final report of the Police. In any case, the suspension shall stand revoked after 60 days of the date of this order, though without prejudice to any proceedings under CBLR, 2013 which may be initiated/ pending finalisation against the appellant.

(Justice G. Raghuram)
President

(R. K. Singh)
Member (Technical)

*Pant*